

**ASSEMBLY, No. 5841**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED JUNE 3, 2021

**Sponsored by:**

**Assemblyman ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

Revises certain funding provisions for financial assistance and grants from Hazardous Discharge Site Remediation Fund.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/30/2021)**

1 AN ACT concerning financial assistance and grants from the  
2 Hazardous Discharge Site Remediation Fund and amending  
3 P.L.1993, c.139.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to  
9 read as follows:

10 27. a. (1) Except as provided in section 4 of P.L.2007, c.135  
11 (C.52:27D-130.7), financial assistance from the remediation fund  
12 may only be rendered to persons who cannot establish a remediation  
13 funding source for the full amount of a remediation. Financial  
14 assistance pursuant to this act may be rendered only for that amount  
15 of the cost of a remediation for which the person cannot establish a  
16 remediation funding source. The limitations on receiving financial  
17 assistance established in this paragraph (1) shall not limit the ability  
18 of municipalities, counties, redevelopment entities authorized to  
19 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
20 c.79 (C.40A:12A-4), persons who are not required to establish a  
21 remediation funding source for that part of the remediation  
22 involving an unrestricted use remedial action, persons performing a  
23 remediation in an environmental opportunity zone, or persons who  
24 voluntarily perform a remediation, from receiving financial  
25 assistance from the fund.

26 (2) Financial assistance rendered to persons who voluntarily  
27 perform a remediation or perform a remediation in an  
28 environmental opportunity zone may only be made for that amount  
29 of the cost of the remediation that the person cannot otherwise fund  
30 by any of the authorized methods to establish a remediation funding  
31 source.

32 (3) Financial assistance rendered to persons who do not have to  
33 provide a remediation funding source for the part of the remediation  
34 that involves an unrestricted use remedial action may only be made  
35 for that amount of the cost of the remediation that the person cannot  
36 otherwise fund by any of the authorized methods to establish a  
37 remediation funding source.

38 b. Financial assistance may be rendered from the remediation  
39 fund to (1) owners or operators of industrial establishments who are  
40 required to perform remediation activities pursuant to P.L.1983,  
41 c.330 (C.13:1K-6 et al.), upon closing operations or prior to the  
42 transfer of ownership or operations of an industrial establishment,  
43 (2) persons who are liable for the cleanup and removal costs of a  
44 hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et  
45 seq.), and (3) persons who voluntarily perform a remediation of a

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 discharge of a hazardous substance or hazardous waste.

2 c. Financial assistance and grants may be made from the  
3 remediation fund to a municipality, county, or redevelopment entity  
4 authorized to exercise redevelopment powers pursuant to section 4  
5 of P.L.1992, c.79 (C.40A:12A-4), for real property: (1) on which it  
6 holds a tax sale certificate; (2) that it has acquired through  
7 foreclosure or other similar means; or (3) that it has acquired, or in  
8 the case of a county governed by a board of chosen freeholders, has  
9 passed a resolution or, in the case of a municipality or a county  
10 operating under the "Optional County Charter Law," P.L.1972,  
11 c.154 (C.40:41A-1 et seq.), has passed an ordinance or other  
12 appropriate document to acquire, by voluntary conveyance for the  
13 purpose of redevelopment, for renewable energy generation or for  
14 recreation and conservation purposes. Financial assistance and  
15 grants may only be awarded for real property on which there has  
16 been a discharge or on which there is a suspected discharge of a  
17 hazardous substance or hazardous waste.

18 d. (Deleted by amendment, P.L.2017, c.353)

19 e. Grants may be made from the remediation fund to qualifying  
20 persons who propose to perform a remedial action that would result  
21 in an unrestricted use remedial action.

22 f. Grants may be made from the remediation fund to  
23 municipalities, counties, and redevelopment entities authorized to  
24 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
25 c.79 (C.40A:12A-4), for the preliminary assessment, site  
26 investigation, remedial investigation, and remedial action for real  
27 property where there is a discharge or suspected discharge of a  
28 hazardous substance or hazardous waste within a brownfield  
29 development area. Grants may only be made for a remedial action  
30 pursuant to this subsection when there is a confirmed discharge of a  
31 hazardous substance or hazardous waste. Grants made pursuant to  
32 this subsection for a remedial action may not exceed 75 percent of  
33 the total costs of the remedial action. An ownership interest in the  
34 contaminated property shall not be required in order for a  
35 municipality, county, or redevelopment entity authorized to exercise  
36 redevelopment powers pursuant to section 4 of P.L.1992, c.79  
37 (C.40A:12A-4) to receive a grant for a preliminary assessment, site  
38 investigation, and remedial investigation for real property where  
39 there is a discharge or suspected discharge of a hazardous substance  
40 or hazardous waste in a brownfield development area.  
41 Notwithstanding the limitation on the total amount of financial  
42 assistance and grants that may be awarded in any one year pursuant  
43 to subsection b. of section 28 of P.L.1993, c.139 (C.58:10B-6), the  
44 authority may award an additional amount of financial assistance  
45 and grants in any one year, of up to **[\$1,000,000]** \$2,000,000 , to  
46 any one municipality, county, or redevelopment entity for the  
47 remediation of property in a brownfield development area.

48 (cf: P.L.2017, c.353, s.1)

1       2. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to  
2 read as follows:

3       28. a. Except for moneys deposited in the remediation fund for  
4 specific purposes, and as provided in section 4 of P.L.2007, c.135  
5 (C.52:27D-130.7), financial assistance and grants from the  
6 remediation fund shall be rendered for the following purposes. A  
7 written report shall be sent to the Senate Environment and Energy  
8 Committee, and the Assembly Environment and Solid Waste  
9 Committee, or their successors at the end of each calendar quarter  
10 detailing the allocation and expenditures related to the financial  
11 assistance and grants from the fund.

12       (1) Moneys shall be allocated for financial assistance to persons,  
13 for remediation of real property located in a qualifying municipality  
14 as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

15       (2) Moneys shall be allocated to: (a) municipalities, counties, or  
16 redevelopment entities authorized to exercise redevelopment  
17 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

18       (i) projects in brownfield development areas pursuant to  
19 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

20       (ii) matching grants up to a cumulative total amount from the  
21 fund of **【\$2,500,000】** \$10,000,000 per year of up to 75 percent of  
22 the costs of the remedial action for projects involving the  
23 redevelopment of contaminated property for recreation and  
24 conservation purposes, provided that the use of the property for  
25 recreation and conservation purposes is included in the  
26 comprehensive plan for the development or redevelopment of  
27 contaminated property, up to 75 percent of the costs of the remedial  
28 action for projects involving the redevelopment of contaminated  
29 property for renewable energy generation, or up to 50 percent of the  
30 costs of the remedial action for projects involving the  
31 redevelopment of contaminated property for affordable housing  
32 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),

33       (iii) grants for preliminary assessment, site investigation or  
34 remedial investigation of a contaminated site,

35       (iv) financial assistance or grants for the implementation of a  
36 remedial action, or

37       (v) financial assistance for remediation activities at sites that  
38 have been contaminated by a discharge of a hazardous substance or  
39 hazardous waste, or at which there is an imminent and significant  
40 threat of a discharge of a hazardous substance or hazardous waste,  
41 and the discharge or threatened discharge poses or would pose an  
42 imminent and significant threat to a drinking water source, to  
43 human health, or to a sensitive or significant ecological area; or

44       (b) persons for financial assistance for remediation activities at  
45 sites that have been contaminated by a discharge of a hazardous  
46 substance or hazardous waste, or at which there is an imminent and  
47 significant threat of a discharge of a hazardous substance or  
48 hazardous waste, and the discharge or threatened discharge poses or

1 would pose an imminent and significant threat to a drinking water  
2 source, to human health, or to a sensitive or significant ecological  
3 area.

4 Except as provided in subsection f. of section 27 of P.L.1993,  
5 c.139 (C.58:10B-5), financial assistance and grants to  
6 municipalities, counties, or redevelopment entities authorized to  
7 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
8 c.79 (C.40A:12A-4) may be made for real property: (1) on which  
9 they hold a tax sale certificate; (2) that they have acquired through  
10 foreclosure or other similar means; or (3) that they have acquired,  
11 or, in the case of a county governed by a board of chosen  
12 freeholders, have passed a resolution or, in the case of a  
13 municipality or a county operating under the "Optional County  
14 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an  
15 ordinance or other appropriate document to acquire, by voluntary  
16 conveyance for the purpose of redevelopment, or for recreation and  
17 conservation purposes. Financial assistance and grants may only be  
18 awarded for real property on which there has been or on which there  
19 is suspected of being a discharge of a hazardous substance or a  
20 hazardous waste. Grants and financial assistance provided pursuant  
21 to this paragraph shall be used for performing preliminary  
22 assessments, site investigations, remedial investigations, and  
23 remedial actions on real property in order to determine the existence  
24 or extent of any hazardous substance or hazardous waste  
25 contamination, and to remediate the site in compliance with the  
26 applicable health risk and environmental standards on those  
27 properties. No financial assistance or grants for a remedial action  
28 shall be awarded until the municipality, county, or redevelopment  
29 entity authorized to exercise redevelopment powers pursuant to  
30 section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real  
31 property, provided that a matching grant for 75 percent of the costs  
32 of a remedial action for a project involving the redevelopment of  
33 contaminated property for recreation and conservation purposes, or  
34 a matching grant for 50 percent of the costs of a remedial action for  
35 a project involving the redevelopment of contaminated property for  
36 affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et  
37 al.) may be made to a municipality, county, or redevelopment entity  
38 authorized to exercise redevelopment powers pursuant to section 4  
39 of P.L.1992, c.79 (C.40A:12A-4) even if it does not own the real  
40 property and a grant may be made to a municipality, county, or  
41 redevelopment entity authorized to exercise redevelopment powers  
42 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for a  
43 remediation in a brownfield development area pursuant to  
44 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5) even if  
45 the entity does not own the real property. No grant shall be awarded  
46 for a remedial action for a project involving the redevelopment of  
47 contaminated property for recreation or conservation purposes  
48 unless the use of the property is preserved for recreation and

1 conservation purposes by conveyance of a development easement,  
2 conservation restriction or easement, or other restriction or  
3 easement permanently restricting development, which shall be  
4 recorded and indexed with the deed in the registry of deeds for the  
5 county. No grant shall be awarded pursuant to this paragraph to a  
6 municipality, a county, or a redevelopment entity authorized to  
7 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
8 c.79 (C.40A:12A-4) unless that entity has adopted by ordinance or  
9 resolution a comprehensive plan specifically for the development or  
10 redevelopment of contaminated or potentially contaminated real  
11 property in that municipality or the entity can demonstrate its  
12 commitment to the authority that the subject real property will be  
13 developed or redeveloped within a three-year period from the  
14 completion of the remediation. Until adoption of the criteria  
15 required pursuant to paragraph (8) of subsection a. of section 30 of  
16 P.L.1993, c.139 (C.58:10B-8), the authority shall use the criteria  
17 provided in this paragraph in determining the award of grants from  
18 the remediation fund;

19 (3) Moneys shall be allocated for financial assistance to persons  
20 who voluntarily perform a remediation of a hazardous substance or  
21 hazardous waste discharge;

22 (4) (Deleted by amendment, P.L.2017, c.353)

23 (5) Moneys shall be allocated for (a) financial assistance to  
24 persons who own and plan to remediate an environmental  
25 opportunity zone for which an exemption from real property taxes  
26 has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-  
27 3.154), or (b) matching grants for up to 25 percent of the project  
28 costs to qualifying persons, municipalities, counties, and  
29 redevelopment entities authorized to exercise redevelopment  
30 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), who  
31 propose to perform a remedial action for the implementation of an  
32 unrestricted use remedial action except that no grant awarded  
33 pursuant to this paragraph may exceed \$250,000; and

34 (6) At least 30 percent of the moneys in the remediation fund  
35 shall be allocated for grants to a municipality, county, or  
36 redevelopment entity authorized to exercise redevelopment powers  
37 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for the  
38 preliminary assessment, site investigation, remedial investigation,  
39 or remedial action of a site, not located in a brownfield  
40 development area, that has been contaminated by a discharge or a  
41 suspected discharge of a hazardous substance or hazardous waste as  
42 authorized in this subsection. The remainder of the moneys in the  
43 remediation fund shall be allocated for any of the purposes  
44 authorized in this section. For the purposes of paragraph (5) of this  
45 subsection, "qualifying persons" means any person who has a net  
46 worth of not more than \$2,000,000 and "project costs" means that  
47 portion of the total costs of a remediation that is specifically to  
48 implement an unrestricted use remedial action.

1       b. Loans issued from the remediation fund shall be for a term  
2 not to exceed ten years, except that upon the transfer of ownership  
3 of any real property for which the loan was made, the unpaid  
4 balance of the loan shall become immediately payable in full. The  
5 unpaid balance of a loan for the remediation of real property that is  
6 transferred by devise or succession shall not become immediately  
7 payable in full, and loan repayments shall be made by the person  
8 who acquires the property. Loans to municipalities, counties, and  
9 redevelopment entities authorized to exercise redevelopment  
10 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4),  
11 shall bear an interest rate equal to 2 points below the Federal  
12 Discount Rate at the time of approval or at the time of loan closing,  
13 whichever is lower, except that the rate shall be no lower than 3  
14 percent. All other loans shall bear an interest rate equal to the  
15 Federal Discount Rate at the time of approval or at the time of the  
16 loan closing, whichever is lower, except that the rate on such loans  
17 shall be no lower than five percent. Financial assistance and grants  
18 may be issued for up to 100 percent of the estimated applicable  
19 remediation cost, except that the cumulative maximum amount of  
20 financial assistance which may be issued to a person, in any  
21 calendar year, for one or more properties, shall be \$500,000.  
22 Financial assistance and grants to any one municipality, county, or  
23 redevelopment entity authorized to exercise redevelopment powers  
24 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not  
25 exceed **[\$2,000,000]** \$3,000,000 in any calendar year except as  
26 provided in subsection f. of section 27 of P.L.1993, c.139  
27 (C.58:10B-5). Grants to a municipality, county, or redevelopment  
28 entity authorized to exercise redevelopment powers pursuant to  
29 section 4 of P.L.1992, c.79 (C.40A:12A-4) may be for up to 100  
30 percent of the total costs of the preliminary assessment, site  
31 investigation, or remedial investigation subject to the provisions of  
32 section 5 of P.L.2017, c.353 (C.58:10B-6.2). Grants to a  
33 municipality, a county, or a redevelopment entity authorized to  
34 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
35 c.79 (C.40A:12A-4) may not exceed 75 percent of the total costs of  
36 the remedial action at any one site. Repayments of principal and  
37 interest on the loans issued from the remediation fund shall be paid  
38 to the authority and shall be deposited into the remediation fund.

39       c. No person, other than a qualified person planning to use an  
40 unrestricted use remedial action for the cost of the remedial action,  
41 a person performing a remediation in an environmental opportunity  
42 zone, or a person voluntarily performing a remediation, shall be  
43 eligible for financial assistance from the remediation fund to the  
44 extent that person is capable of establishing a remediation funding  
45 source for the remediation as required pursuant to section 25 of  
46 P.L.1993, c.139 (C.58:10B-3).

47       d. The authority may use a sum that represents up to 2 percent  
48 of the moneys issued as financial assistance or grants from the

1 remediation fund each year for administrative expenses incurred in  
2 connection with the operation of the fund and the issuance of  
3 financial assistance and grants.

4 e. Prior to March 1 of each year, the authority shall submit to  
5 the Senate Environment and Energy Committee and the Assembly  
6 Environment and Solid Waste Committee, or their successors, a  
7 report detailing the amount of money that was available for  
8 financial assistance and grants from the remediation fund for the  
9 previous calendar year, the amount of money estimated to be  
10 available for financial assistance and grants for the current calendar  
11 year, the amount of financial assistance and grants issued for the  
12 previous calendar year and the category for which each financial  
13 assistance and grant was rendered, the amount of remediation costs  
14 expended for each site for the previous calendar year for which  
15 financial assistance or a grant has been approved and the balance  
16 remaining on each financial assistance or grant, and any suggestions  
17 for legislative action the authority deems advisable to further the  
18 legislative intent to facilitate remediation and promote the  
19 redevelopment and use of existing industrial sites.

20 (cf: P.L.2017, c.353, s.2)

21  
22 3. This act shall take effect immediately and shall apply to any  
23 applicable applications that are pending as of the effective date of  
24 this act.

## 25 26 27 STATEMENT

28  
29 This bill changes the laws governing financial assistance and  
30 grants for the remediation of contaminated sites from the Hazardous  
31 Discharge Site Remediation Fund (fund).

32 Specifically, the bill increases the annual cap on the maximum  
33 amount of financial assistance and grants that may be issued from  
34 the fund to a municipality, county, or redevelopment entity from \$2  
35 million to \$3 million. Notwithstanding that limitation, in  
36 brownfield development areas, the bill would increase the  
37 additional amount that may be awarded to a municipality, county or  
38 redevelopment entity from \$1 million to \$2 million. The bill also  
39 increases the cumulative annual cap of matching grants that may be  
40 awarded from the fund to municipalities, counties, and  
41 redevelopment entities for projects involving the redevelopment of  
42 contaminated property for recreation and conservation purposes,  
43 renewable energy generation, or affordable housing from \$2.5  
44 million to \$10 million. The bill would take effect immediately and  
45 would apply to any applicable applications that are pending as of  
46 the bill's effective date.

47 This bill is intended to alleviate the current backlog of  
48 applications to the Hazardous Discharge Site Remediation Fund



**A5841 ZWICKER, KARABINCHAK**

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- 1 grant program by increasing the amount the State can disburse each
- 2 year from the fund. The above-mentioned caps were established at
- 3 their current amounts by P.L.2017, c.353.